



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/640,966	08/16/2000	Donald F. Gordon	19880-002710	3423

56015 7590 09/20/2005

MOSER, PATTERSON & SHERIDAN, LLP/
SEDNA PATENT SERVICES, LLC
595 SHREWSBURY AVENUE
SUITE 100
SHREWSBURY, NJ 07702

EXAMINER

HOYE, MICHAEL W

ART UNIT	PAPER NUMBER
----------	--------------

2614

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	09/640,966		GORDON ET AL.	
	Examiner		Art Unit	
	Michael W. Hoye		2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 9, 10 and 35-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 9, 10 and 35-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 November 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicants' arguments filed on June 30, 2005 and entered with the RCE filed on July 18, 2005 have been fully considered but they are not persuasive.

Regarding amended independent claim 1, the Applicants argue that, "the combination of Ellis/Zdepski fails to teach or suggest the claimed access to any audio, data, or video associated with one music channel is provided through one music interface page."

The Applicants further argue that, "In other words, access to any audio, data, or video associated with one music channel is provided through one music interface page is claimed. The combination of Ellis/Zdepski fails to teach or suggest at least these elements."

More specifically, the Applicants argue that, "Ellis discloses completely separate listings of "music channels" and "music video channels" on separate "display screens"... [And,] Zdepski is generally directed to a system and method for inserting pictures within a background picture in a interactive television application."

In response, the Examiner respectfully disagrees with the Applicants because Ellis clearly teaches all of the elements described above as shown in Fig. 53A or Fig. 53B, where access to any audio, data, or video associated with one music channel is provided through one music interface page.

In addition, in response to Applicants' argument that the references fail to show certain features of Applicants' invention, it is noted that the features upon which the Applicants rely (i.e., access to any audio, data, or video associated with one music channel is provided through

Art Unit: 2614

one music interface page) are not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). In addition to, the claim language uses the term “comprising” which is open ended and not limited to “one” or “only”.

Finally, regarding the Zdepski reference, the Examiner respectfully notes that the Zdepski reference was used to provide teaching for the claimed said guide graphics portion includes a plurality of encoded guide graphics portion slices and said video portion includes a plurality of encoded video portion slices as presented in the previous rejection and in the rejection below.

Regarding dependent claims 9 and 10, the Applicants argue that the claims inherit the patentable subject matter of claim 1.

In response, the Examiner respectfully disagrees with the Applicants because of the remarks made above regarding claim 1.

Regarding independent claim 35, the Applicants argue that, “For the same response given above with respect to claim 1, claim 35 is patentable over Ellis. Furthermore, Hendricks also fails to teach or suggest the claimed access to any audio, data, or video associated with one music channel is provided through one music interface page. By contrast, Hendricks teaches separate displays for “digital audio program choices” and video (“regular cable TV”).”

In response, the Examiner respectfully disagrees with the Applicants because of the remarks made above regarding claim 1. In addition to, regarding the Hendricks reference, the Examiner respectfully notes that the Ellis reference was used to provide teaching regarding the

Art Unit: 2614

elements described above and the Hendricks reference was used to provide teaching for other elements of the claim not explicitly disclosed by Ellis as described in the rejection below.

Regarding dependent claims 36-38, the Applicants argue that the claims inherit the patentable subject matter of claim 35.

In response, the Examiner respectfully disagrees with the Applicants because of the remarks made above regarding claims 1 and 35.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-11, 13 and 16-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis et al (US 2004/0117831), in view of Zdepski et al (USPN 6,606,746), both cited by the Examiner.

As to claim 1, note the Ellis et al reference which discloses a method for providing an interactive music interface. The claimed providing an interactive program guide (IPG) page is met by the program guide screen 100 as shown in Fig. 2 (or 110 in Fig. 3 for example) comprising a guide graphics portion (110 in Fig. 3, with brand identifier 102, advertisements 104A-C and icons 112A-O, see pg. 7, [0118]-[0120]) and a video portion (Video Window 105 in Fig. 3). The claimed said guide graphics having included therein a music icon representative of a topic of music is met by music icon (option 112D in Fig. 3, see pg. 14, ¶[0164]), which, when

Art Unit: 2614

selected, displays the MUSIC HUB menu screen 630 as shown in Fig. 52, where the user may select a variety of program guide features related to music and music related programming, including music channels (option 631A) and/or music video channels (option 631B). The claimed receiving a selection for the music icon is met by either selecting the Music Channels option or icon (631A), which causes the MUSIC CHANNELS menu display 634 of Fig. 53A to be displayed, or in an alternate selection by selecting the Music Video Channels option or icon (631B), which causes the MUSIC VIDEO CHANNELS menu display 640 of Fig. 53b to be displayed. The claimed providing the music interface page having included therein a listing of music channels is met by either the MUSIC CHANNELS menu display 634 in Fig. 53A as described above (see pg. 20, [0217]-[0222]), or by the MUSIC VIDEO CHANNELS menu display 640 in Fig. 53B as described above (see pgs. 20-21, [0219] and [0224]). Ellis does not explicitly disclose the claimed said guide graphics portion includes a plurality of encoded guide graphics portion slices and said video portion includes a plurality of encoded video portion slices. However, the Zdepski et al reference teaches that the MPEG standard defines a slice as a contiguous sequence of 2 or more macroblocks (16x16 pixel blocks) that begin and end on the same row of macroblocks (see col. 2, lines 30-39 and col. 10, line 66 – col. 11, line 36). Zdepski further teaches a graphical user interface GUI in an interactive television system that provides a compressed background picture (encoded guide graphics portion) which comprises a plurality of slices, and one or more compressed insert pictures (video portion) which comprise one or more slices (see col. 2, line 42 – col. 3, line 33 and col. 4, lines 51-64). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have combined the interactive music interface page in the Ellis et al reference with the teachings of Zdepski, which

Art Unit: 2614

teaches encoding video as slices using slice-based encoding for the advantages of saving transmission bandwidth, data processing, and data storage, since video data updates are smaller in size. One of ordinary skill in the art would have been led to make such a modification since using slice-based encoding provides additional efficiency for transmitting and processing video data as described above. The claimed listing including a particular music channel is met by either of the music channels 636 as shown in Fig. 53A or 641 as shown in Fig. 53B. The claimed receiving a selection of the particular music channel via depression of a key is met by the user using UP and DOWN arrow keys on the remote control (see pg. 21, [0220] and [0224]). The claimed when the particular music channel is highlighted as a result of a cursor moving over the particular music channel is met by the user using the remote control arrow keys or cursor keys to highlight or select an option (music channel) in either listing 636 of Fig. 53A or listing 641 in Fig. 53B, where the program guide switches the current audio to the selected or highlighted music channel (see pgs. 20-21, [0219]-[0220] and [0224], also see pg. 16, [0187]). The claimed retrieving and processing an audio stream, if the audio stream is associated with the selected music channel is met by the user using the remote control arrow keys or cursor keys to highlight or select an option or channel icon in either listing 636 or listing 641 of Figs. 53A-53B, and the program guide tunes to the selected music channel and the audio of the program guide is switched to the selected channel (pg. 21, [0220]-[0224]). The claimed retrieving and decoding a data stream to retrieve description information, if the data stream is associated with the selected music channel is met by the in-band data or channel received with the music channels (pg. 21, [0221] & [0224], and the claimed decoding a data stream to retrieve descriptive information is met by the set-top box decoding the in-band information from the selected music channel and

Art Unit: 2614

displaying the song title, artist, and album cover of the song, as well as other information in the program guide screen (pg. 21, [0221]-[0224]). The claimed retrieving and decoding a video stream, if the video stream is associated with the selected music channel is met by the user selecting either option 631A in screen 630 of Fig. 52, where the program guide may display screen 634 as shown in Fig. 53A, which displays available music channels and where the user may select an available channel from listing 641, where the program guide switches the current video in window 105 to the selected music channel to display a video picture of the album cover in video display region 105, if available, and play the accompanying music and the set-top box tunes and decodes the audio stream, data and video data for display in the program guide screen 640 (see pg. 21, [0219]-[0224]), or option 631B in screen 630 of Fig. 52, where the program guide may display screen 640 as shown in Fig. 53B, which displays available music video channels and where the user may select an available channel from listing 641, where the program guide switches the current video in window 105 to the selected music video channel to play the current video and accompanying music and the set-top box tunes and decodes the video stream and data for display in the program guide screen 640 (see pg. 21, [0224]). The claimed providing any processing audio stream, any descriptive information, and any decoded video for the selected music channel is met by Figs. 53A-53B as described above, where the set-top box decodes the in-band information from the selected music channel including the track and may display data including the song title, artist, and a video image of the album cover of the song, as well as other information in the program guide screen, including displaying music videos in the display window 105 (see pg. 21, [0220]-[0224]).

As to claim 9, the Ellis et al reference further discloses the claimed the music interface page includes a plurality of display regions as met by Figs. 53A-53B, for example, the claimed wherein the selected music channel is included in a music channel listing that is displayed in a first display region is met by channel listing 641, and the claimed wherein the decoded video is displayed in a second display region is met by the album cover video display window 105 (Fig. 53A) or the music video region 105 (Fig. 53B).

As to claim 10, the Ellis et al reference further discloses the claimed retrieving one or more objects used to identify the music interface page as met by objects 631A-631F as well as other objects as shown in Fig. 52; and the claimed providing the retrieved objects at particular locations of the music interface page is met by the locations of the objects described above as shown in the display screen 630 of Fig. 52.

4. Claims 35-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks et al (USPN 5,990,927), in view of Ellis et al (US 2004/0117831), in further view of Zdepski et al, all cited by the Examiner.

As to claim 35, note the Hendricks et al reference which discloses a set top terminal (STT) (220, Figs. 1, 3 and 4) for receiving programming guide data. The claimed demodulator operative to receive a modulated signal and generate a transport stream is met by demodulator 606 in Fig. 4. The claimed transport demultiplexer coupled to the demodulator and operative to receive and process the transport stream to provide a plurality of elementary streams is met by demultiplexer 609 in Fig 4. The claimed decoder (600) coupled to the transport demultiplexer (609) and operative to decode a first elementary stream to generate an interactive program guide

Art Unit: 2614

(IPG) page (Fig. 21). Hendricks et al discloses providing a music interface page having included therein a listing of music channels see Fig. 21 (also see col. 39, line 18 – col. 40, line 53).

Hendricks does not explicitly disclose an interactive program guide having included therein a music icon representative of a topic of music, which provides an IPG page for display, receiving a selection for the music icon, providing a music interface page having included therein a listing of music channels... Hendricks provides a music interface page having included therein a listing of music channels (Fig. 21) as described above, which is accessed directly from the user pressing a button on the remote control Fig. 13b (see col. 30, lines 40-62). The Ellis et al reference discloses an interactive program guide (110) comprising a guide graphics portion (110 in Fig. 3, with brand identifier 102, advertisements 104A-C and icons 112A-O, see pg. 7, [0118]-[0120]) and a video portion (Video Window 105 in Fig. 3). The claimed said guide graphics portion of said IPG page having included therein a music icon (option 112D in Fig. 3, see pg. 14, ¶[0164]) representative of a topic of music, which provides a IPG page for display, receiving a selection for the music icon, and providing a music interface page having included therein a listing of music channels, which is met by selecting option 112D, where the system displays the MUSIC HUB menu screen 630 as shown in Fig. 52, where the user may select a variety of program guide features related to music and music related programming, including music channels (option 631A). The claimed receiving a selection for the music icon is met by selecting the Music Channels option or icon (631A), which causes the MUSIC CHANNELS menu display 634 of Fig. 53A to be displayed, and the claimed providing the music interface page having included therein a listing of music channels is met by the MUSIC CHANNELS menu display 634 in Fig. 53A as described above (see pg. 20, [0217]-[0219]). The claimed listing including a particular

Art Unit: 2614

music channel is met by either of the music channels 636 as shown in Fig. 53A or 641 as shown in Fig. 53B. The claimed receive a selection of the particular music channel via depression of a key is met by the user using UP and DOWN arrow keys on the remote control (see pg. 21, [0220] and [0224]). The claimed when the particular music channel is highlighted as a result of a cursor moving over the particular music channel is met by the user using the remote control arrow keys or cursor keys to highlight or select an option (music channel) in either listing 636 of Fig. 53A or listing 641 in Fig. 53B, where the program guide switches the current audio to the selected or highlighted music channel (see pgs. 20-21, [0219]-[0220] and [0224], also see pg. 16, [0187]). The claimed retrieve and process an audio stream, if the audio stream is associated with the selected music channel is met by the user using the remote control arrow keys or cursor keys to highlight or select an option or channel icon in either listing 636 or listing 641 of Figs. 53A-53B, and the program guide tunes to the selected music channel and the audio of the program guide is switched to the selected channel (pg. 21, [0220]-[0224]). The claimed retrieve and decode a data stream to retrieve description information, if the data stream is associated with the selected music channel is met by the in-band data or channel received with the music channels (pg. 21, [0221] & [0224], and the claimed decode a data stream to retrieve descriptive information is met by the set-top box decoding the in-band information from the selected music channel and displaying the song title, artist, and album cover of the song, as well as other information in the program guide screen (pg. 21, [0221]-[0224]). The claimed retrieve and decode a video stream, if the video stream is associated with the selected music channel is met by the user selecting either option 631A in screen 630 of Fig. 52, where the program guide may display screen 634 as shown in Fig. 53A, which displays available music channels and where the

Art Unit: 2614

user may select an available channel from listing 641, where the program guide switches the current video in window 105 to the selected music channel to display a video picture of the album cover in video display region 105, if available, and play the accompanying music and the set-top box tunes and decodes the audio stream, data and video data for display in the program guide screen 640 (see pg. 21, [0219]-[0224]), or option 631B in screen 630 of Fig. 52, where the program guide may display screen 640 as shown in Fig. 53B, which displays available music video channels and where the user may select an available channel from listing 641, where the program guide switches the current video in window 105 to the selected music video channel to play the current video and accompanying music and the set-top box tunes and decodes the video stream and data for display in the program guide screen 640 (see pg. 21, [0224]). The claimed provide any processing audio stream, any descriptive information, and any decoded video for the selected music channel is met by Figs. 53A-53B as described above, where the set-top box decodes the in-band information from the selected music channel including the track and may display data including the song title, artist, and a video image of the album cover of the song, as well as other information in the program guide screen, including displaying music videos in the display window 105 (see pg. 21, [0220]-[0224]). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have combined the set top terminal of Hendricks et al with the teachings of the additional menus and icons as disclosed in the Ellis et al reference for the advantage of providing means of accessing the music channels through the interactive program guide and not just the remote control. One of ordinary skill in the art would have been led to make such a modification since providing additional ways of accessing the music channels would be beneficial to the user and is commonly used in many interactive

Art Unit: 2614

program guide services. Hendricks and Ellis do not explicitly disclose the claimed wherein said guide graphics portion includes a plurality of encoded guide graphics portion slices and said video portion includes a plurality of encoded video portion slices. However, the Zdepski et al reference teaches that the MPEG standard defines a slice as a contiguous sequence of 2 or more macroblocks (16x16 pixel blocks) that begin and end on the same row of macroblocks (see col. 2, lines 30-39 and col. 10, line 66 – col. 11, line 36). Zdepski further teaches a graphical user interface GUI in an interactive television system that provides a compressed background picture (encoded guide graphics portion) which comprises a plurality of slices, and one or more compressed insert pictures (video portion) which comprise one or more slices (see col. 2, line 42 – col. 3, line 33 and col. 4, lines 51-64). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have further combined the Hendricks and Ellis et al references with the teachings of Zdepski, which further teaches encoding video as slices using slice-based encoding for the advantages of saving transmission bandwidth, data processing, and data storage, since video data updates are smaller in size. One of ordinary skill in the art would have been led to make such a modification since using slice-based encoding provides additional efficiency for transmitting and processing video data as described above.

As to claim 36, the claimed decoder is further operative to receive an indication that a particular music channel has been selected, retrieve an audio stream associated with the selected music channel, and process the retrieved audio stream as met by the set-top box 26 in the Ellis et al reference and the additional features as previously described above in claim 1.

As to claim 37, the claimed decoder is further operative to retrieve a data stream associated with the selected music channel, decode the data stream to retrieve descriptive

Art Unit: 2614

information for the selected music channel, and provide the descriptive information is met by the set-top box 26 in the Ellis et al reference and the additional features as previously described above in claim 1.

As to claim 38, the claimed the decoder is further operative to retrieve a video stream associated with the selected music channel, decode the retrieved video stream, and provide decoded video for the selected music channel is met by the set-top box 26 in the Ellis et al reference and the additional features as previously described above in claim 1.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael W. Hoyer whose telephone number is **571-272-7346**. The examiner can normally be reached on Monday to Friday from 8:30 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller, can be reached at **571-272-7353**.

Any response to this action should be mailed to:

Please address mail to be delivered by the United States Postal Service (USPS) as follows:

Mail Stop _____
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Effective January 14, 2005, except correspondence for Maintenance Fee payments, Deposit Account Replenishments (see 1.25(c)(4)), and Licensing and Review (see 37 CFR 5.1(c) and 5.2(c)), please address correspondence to be delivered by other delivery services (Federal Express (Fed Ex), UPS, DHL, Laser, Action, Purolator, etc.) as follows:

Art Unit: 2614

United States Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Some correspondence may be submitted electronically. See the Office's Internet Web site <http://www.uspto.gov> for additional information.

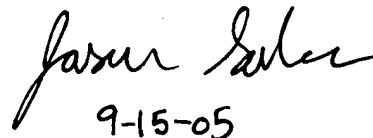
Or faxed to: 571-273-8300

Hand-delivered responses should be brought to the Customer Service Window at the address listed above.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to customer service whose telephone number is **571-272-2600**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866-217-9197** (toll-free).

Michael W. Hoyer
September 14, 2005

Jason Salce
Art Unit 2614

9-15-05